THE HON'BLE SRI JUSTICE ELIPE DHARMA RAO

-

WRIT PETITION NO : 18709 of 2005

Dated: 24.08.2005

Between

C.Krishna, s/o Bagaiah, aged 37 years,Occ.Ward Member, r/o Khajipapally village, Jinnaram Mandal, Medak District.

..Petitioner

and

The District Panchayat Officer, Medak District at Sanga Reddy and another.

..Respondents.

THE HON'BLE SRI JUSTICE ELIPE DHARMA RAO

-

WRIT PETITION NO : 18709 of 2005

ORDER:

Seeking a direction to quash the impugned proceedings of the 1st respondent dated 20.07.2005 as illegal and arbitrary and contrary to Section 22 (1) of A.P.Panchayat Raj Act, 1994 (for brevity 'the Act') the present writ petition has been preferred by the petitioner.

Bereft of the details, the facts giving rise to file the present writ petition are as follows:

The petitioner was elected as a ward member of Khajipally and to that effect a certificate was issued by the Election Officer on 17.08.2001. On 17.08.2005, he was served with intimation under Section 22 of the Act, passed by the 1st respondent alleging that he was disqualified as a member of Gram Panchayat on the premise of having more than two children as per the report of the 2nd respondent. Furthermore, the 2nd respondent in his report had alleged that during the course of enquiry, it was revealed that his 4th child was born on 4.6.1995. Apart from that, without issuing any notice, the 2nd respondent had conducted the enquiry as contemplated under Section 22 of the Act. Further, 1st respondent has no power or authority under Section 22 of the Act to issue the impugned proceedings. Hence, the writ petition.

The contention of the learned counsel for the petitioner is that 1st respondent has no power or authority to pass the order impugned under Section 22 of the Act and it is for the District Court to adjudicate the issue in question only after a reference from the Executive Authority as per the resolution passed by the Gram Panchayat and therefore, the order impugned is liable to be set aside.

Heard the learned counsel on either side.

Perused the material available on record and the order impugned.

A perusal of the order impugned herein, goes to show that it is nothing but an intimation. Since the said intimation is conveyed to the petitioner without any opportunity to him, it cannot be construed as an order and therefore, I am of the opinion that the petitioner cannot be disqualified for holding the office of the Ward Member Gram Panchayat Khajipally of Jinnaram Mandal with immediate effect, in pursuance of the said intimation and hence, the same is liable to be set aside.

In the light of the facts and circumstances of the case, the impugned order is set aside to the extent of disqualifying the petitioner as Ward Member, Gram Panchayat, Khajipally of Jinnamram Mandal with immediate effect. However, it is made clear that remaining part of the impugned order shall be treated as an intimation to the petitioner and as such, the petitioner shall submit his explanation to the authority concerned for its consideration and the authority

concerned, in turn, shall take further action in accordance with law.

The writ petition is disposed of accordingly. No costs.

_____

24.08.2005

Note:

Furnish CC by Monday.

(b/o)

rkk